

S.C.R. 6 - By Uribe: Extending congratulations to the Blue Dolphin Aquatic Club on its 22nd International Swim Meet.

S.C.R. 7 - By Caperton: Extending to the 93 present and former members of the Legislative Budget Board an expression of appreciation of the service rendered by the board's members during its first 40 years.

S.R. 10 - By Truan: Commending the Southwest Voter Registration Education Project for instilling hope and belief in the American democratic process in the hearts of millions of Mexican Americans.

S.R. 11 - By Henderson: Extending congratulations to John Monroig on achieving the rank of Eagle Scout.

S.R. 12 - By Henderson: Extending congratulations to Scott A. Buehler of Houston on achieving the rank of Eagle Scout.

S.R. 13 - By Green: Extending congratulations to the members of the Newton family on the happy occasion of their family reunion with best wishes for a most memorable and joyous celebration.

S.R. 14 - By Montford: Extending best wishes to the former students of Dunbar-Struggs High School for a most memorable reunion.

S.R. 16 - By Henderson: Extending congratulations to Michael C. Peabody of Houston on achieving the rank of Eagle Scout.

S.R. 17 - By Brown: Extending congratulations to David L. Engibous on the conclusion of a successful career in which he served as a key leader in a major company in one of the leading industries of our state.

S.R. 18 - By Uribe: Extending congratulations to the Blue Dolphin Aquatic Club on its 22nd International Swim Meet and for its encouragement and promotion of young swimmers.

S.R. 19 - By Sims: Recognizing participants in the Future Farmers of America, the University Interscholastic League and the School band from Grandfalls-Royalty High School.

S.R. 20 - By Barrientos: Extending congratulations to Mr. and Mrs. Martin Vega of Austin on their 25th wedding anniversary.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 5:10 p.m. adjourned until 10:00 a.m. tomorrow.

THIRD DAY (Friday, June 23, 1989)

The Senate met at 10:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Glasgow, Green, Haley, Harris, Henderson, Johnson, Krier, Lyon, McFarland, Montford, Parker, Parmer, Ratliff, Santiesteban, Sims, Tejeda, Truan, Uribe, Washington, Whitmire, Zaffirini.

A quorum was announced present.

Heavenly Father, as deliberation continues on the major issue of this session, may wise and experienced counsel prevail as the Members bring to the table their best judgment in finalizing the compromise. This is a time for decision, and we believe, by Your grace, it will be done with individual dedication and resourcefulness and then with the collective strength of the Senate. Bless each one and their work today.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

Senator Leedom was granted leave of absence for today on account of important business on motion of Senator Harris.

REPORTS OF STANDING COMMITTEES

C.S.S.B. 1

C.S.S.B. 35

On motion of Senator Parker and by unanimous consent, C.S.S.B. 35 was ordered not printed.

The following bills were introduced, read first time and referred to the Committee indicated:

S.B. 37 by Armbrister Intergovernmental Relations
Relating to the supplemental compensation paid to the judge of the 377th Judicial District.

S.B. 39 by Johnson **State Affairs**
 Relating to the establishment of branch absentee polling places in certain elections.

S.B. 40 by Uribe Finance
 Relating to an appropriation to Texas State Technical Institute Harlingen.

AT EASE

President Pro Tempore Brown announced at 10:10 a.m. the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION

President Pro Tempore Brown called the Senate to order at 10:22 a.m. as In Legislative Session.

GUEST PRESENTED

Senator Montford was recognized and presented Dr. Dale Rhoades of Crosbyton.

Dr. Rhoades, participating in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians, was welcomed by the Senate and received an expression of gratitude for his service today.

SENATE RESOLUTION 21

Senator Truan offered the following resolution:

WHEREAS, With the death of Cecil E. Burney on June 11, 1989, the City of Corpus Christi lost one of its most beloved and esteemed citizens; and

WHEREAS, Born in Riesel, Texas, in 1915, this distinguished gentleman was a Corpus Christi resident for 52 years; and

WHEREAS, An attorney with the firm of Wood and Burney, he had the distinction of being the youngest person ever elected president of the State Bar of Texas; and

WHEREAS, Proud of his profession and determined to uphold its high standards, Mr. Burney served as president of the American Judicature Society and the National Conference of Bar Presidents; and

WHEREAS, A compassionate, caring, and gentle man, Mr. Burney donated his time and energies to giving free legal advice to the needy; and

WHEREAS, Unstinting in his devotion to his fellowman, Mr. Burney was active with the Lawyers Committee for Civil Rights, the Corpus Christi Chamber of Commerce, the Texas Historical Foundation, the War on Poverty, and the Coastal Bend Community Foundation; and

WHEREAS, A member of the Corpus Christi Housing Authority, he considered obtaining a federal grant for the building of low-income housing as one of his greatest personal achievements; and

WHEREAS, Named the Most Outstanding Young Man in Corpus Christi in 1938, Mr. Burney was the recipient of numerous awards and honors including the Arthur Van Briesan Medal of the National Legal Aid Association, the St. Thomas More Award from St. Mary's University, Distinguished Alumnus Award from Texas A&I University, the Humanitarian Award of the National Council of Christians and Jews, and the Texas Award for Historical Preservation from the Texas Historical Commission; and

WHEREAS, Acknowledged as a great man, he earned the affection and admiration of all those who lived and worked with him; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 71st Legislature, 1st Called Session, hereby extend sincere condolences to the members of his family on their grievous loss: his daughter, Karita B. Safley; his son, Frank B. Burney; and his five grandchildren; and, be it further

RESOLVED, That copies of this Resolution be prepared for the members of his family as an expression of deepest sympathy from the Texas Senate, and that when the Senate adjourns this day, it do so in memory of Cecil E. Burney.

The resolution was read.

On motion of Senator Edwards and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Truan and by unanimous consent, the resolution was adopted by a rising vote of the Senate.

RECESS

On motion of Senator Brooks, the Senate at 10:35 a.m. took recess until 11:00 a.m. today.

AFTER RECESS

The Senate met at 11:00 a.m. and was called to order by the President.

RESOLUTION SIGNED

The President announced the signing in the presence of the Senate the following enrolled resolution:

H.C.R. 3

MESSAGE FROM THE HOUSE

House Chamber
June 23, 1989

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.C.R. 18, Calling on Congress to submit to the states a Constitutional amendment protecting the American flag from wilful desecration.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

COMMITTEE SUBSTITUTE SENATE BILL 1 ON SECOND READING

On motion of Senator Montford and by unanimous consent, the regular order of business and Senate Rule 7.13 were suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1, Relating to the reform of the workers' compensation system; to the creation, powers, and duties of the Texas Workers' Compensation Commission; to work safety; authorizing an appropriation; providing criminal and administrative penalties; and providing for taxes and fees.

The bill was read second time.

Senator Lyon offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.S.B. 1**, Section 6.27(b) (1) on p. 151, line 23 by deleting the word "disclose" and inserting the word "disease" in lieu thereof.

The amendment was read and was adopted viva voce vote.

FLOOR PRIVILEGES GRANTED

On motion of Senator Montford and by unanimous consent, floor privileges were granted to staff personnel Bob Duncan and Jerry Elliott during discussion of C.S.S.B. 1.

Senator Caperton offered the following amendment to the bill:

Floor Amendment No. 2

Amend C.S.S.B. 1 by deleting subsection (c) to Section 8.21 on page 202 and substitute the following:

(c) The commission's health care facility fee guidelines shall apply to any hospital except rural hospitals with 100 or fewer beds, shall be facility-specific, and shall take into account each facility's total operating expenses. Total operating expenses include the sum of health facility operating expenses, as recorded on an accrual basis, including but not limited to salaries and wages, employee benefits, professional fees, supplies, depreciation, amortization, interest, and administrative and facility overhead expenses, as reported on line 4 of Worksheet G-3 of FORM HCFA-2552-85 or similar such form. Total operating expenses do not include state or federal taxes paid or a cost of capital factor.

CAPERTON
MONTFORD

The amendment was read and was adopted viva voce vote.

RECORD OF VOTE

Senator McFarland asked to be recorded as voting "Nay" on the adoption of the amendment.

Senator Caperton offered the following amendment to the bill:

Floor Amendment No. 3

Amend Sec. 15.51 of C.S.S.B. 1, p. 310, l. 20, by renumbering the subsections and adding a new subsection (2).

(2) Section 5, Art. 8309h, Revised Statutes, is amended to read as follows:

(c) The governing board of a political subdivision may provide in its sick leave plan that any payments made pursuant to the plan be offset against any wage-related benefits received under the Texas Workers Compensation Act; provided however that no such sick leave plan may require an employee to take sick leave benefits before receiving benefits under the Texas Workers Compensation Act.

CAPERTON
MONTFORD

The amendment was read.

Senator Bivins offered the following substitute for Floor Amendment No. 3:

Floor Amendment No. 4

Substitute the following for Floor Amendment No. 3:

Amend Sec. 15.51 of C.S.S.B. 1 by adding a new subsection (d) to amended Sec. 3, Art. 8309h, Revised Statutes.

(d) The governing board of a political subdivision may provide in its sick leave plan that any payments made pursuant to the plan be offset against any wage-related benefits received under the Texas Workers Compensation Act.

The amendment was read.

On motion of Senator Bivins and by unanimous consent, the substitute for Floor Amendment No. 3 was withdrawn.

Question recurring on the adoption of Floor Amendment No. 3, the amendment was adopted viva voce vote.

Senator Caperton offered the following amendment to the bill:

Floor Amendment No. 5

Amend C.S.S.B. 1 as follows:

1. Add the following section, appropriately numbered, to Article 17:

SECTION _____. Article II, S.B. No. 222, Acts of the 71st Legislature, Regular Session, 1989 (the General Appropriations Act), is amended by adding the following appropriation to the Department of Health.

In addition to the amounts appropriated above, _____ for fiscal year 1990 and _____ for fiscal year 1991 is appropriated to the Department of Health to be used for the purpose of compliance with the provisions of Senate Bill 1, Seventy-first Legislature, First Called Session. These funds are appropriated out of the General Revenue Fund but shall be reimbursed by the maintenance tax on gross workers' compensation premiums levied against insurance carriers. Such amounts are to be transferred to the appropriate program items.

2. Add the following section, appropriately numbered, to Article 17:

SECTION _____. Article I, S.B. No. 222, Acts of the 71st Legislature, Regular Session, 1989 (the General Appropriations Act), is amended by adding the following appropriation to the Office of the Attorney General.

In addition to the amounts appropriated above there is hereby appropriated from the General Revenue Fund to the Office of the Attorney General the amount of _____ in fiscal year 1990 and _____ in fiscal year 1991 to be used for the purpose of compliance with the provisions of Senate Bill 1, Seventy-first Legislature, First Called Session.

3. Add the following section, appropriately numbered, to Article 17:

SECTION _____. Article I, S.B. No. 222, Acts of the 71st Legislature, Regular Session, 1989 (the General Appropriations Act), is amended by adding the following appropriation to the State Board of Insurance.

In addition to the amounts appropriated above, there is hereby appropriated from the Insurance Operating Fund No. 36, _____ in fiscal year 1990 and _____ in fiscal year 1991 to be used for the purpose of compliance with the provisions of Senate Bill 1, Seventy-first Legislature, First Called Session. Such amounts are to be transferred to the appropriate program items.

4. Add the following section, appropriately numbered, to Article 17:

SECTION _____. (a) All appropriations to the Industrial Accident Board in Article I (pages I-158 through I-162), S.B. No. 222, Acts of the 71st Legislature, Regular Session, 1989 (the General Appropriations Act), and all other provisions under those appropriations, are repealed.

(b) Article I, S.B. No. 222, Acts of the 71st Legislature, Regular Session, 1989 (the General Appropriations Act), is amended by adding, after the contingency appropriations to the Indian Commission, the following appropriations and other provisions relating to the Texas Workers' Compensation Commission:

WORKERS' COMPENSATION COMMISSION

	For The Years Ending	
	<u>August 31, 1990</u>	<u>August 31, 1991</u>
1. Workers' Compensation Program:		
a. Administration	\$	\$
b. Staff Services		
c. Records Maintenance		
d. Claims Review		
e. Mediation, Arbitration and Hearings		
f. Medical Review		
g. Compliance and Practices		
h. Public Information and Assistance		
i. Vocational Rehabilitation		
Total, Workers' Compensation Program	\$	\$
2. Crime Victims Compensation Act:		
a. Administration	\$	\$
b. Medical Cost Evaluation		
c. Payment of Claims, estimated		
Total, Crime Victims Compensation Act	\$	\$
3. State Risk Management	\$	\$
Grand Total, Texas Workers' Compensation Commission	\$	\$
Method of Financing:		
General Revenue Fund:		
a. Statutory Allocation	\$	\$
b. Other General Revenue		
Total, General Revenue Fund	\$	\$
Federal Funds	\$	\$
Reappropriated Receipts		
Crime Victims Compensation Fund No. 469, estimated		
Interagency Contracts		
Total, Method of Financing	\$	\$

1. CAPITAL OUTLAY. The following amounts are included in appropriations made by Article VII of this Act for the purpose of financing the

capital outlays necessary for the operation of the Texas Workers' Compensation Commission. The amounts shown shall be expended only for the purposes of the categories shown and are not available for expenditure for any purpose other than capital outlay, subject to the provisions of Article VII of this Act.

1) Acquisition of Computer Equipment and Software	\$	\$
2) Construction, Repair and Renovation		
Total, Capital Outlay	\$	\$
Method of Financing:		
General Revenue Fund:		
a. Statutory Allocation	\$	\$
b. Other General Revenue		
Total, Method of Financing	\$	\$

In addition to the amounts listed above, any other appropriations made in this Act may be expended for capital outlay purposes subject to any limitations or restrictions on the expenditure of funds established in this Act.

2. **TRANSFER AUTHORITY.** The Texas Workers' Compensation Commission is hereby authorized to transfer funds appropriated hereinabove between items 1.b., 1.c., 1.d., 1.e., 1.f., 1.g., and 1.i.
3. **AITC REVIEW REQUIRED.** Pursuant to the authority granted by Article 16, Section 69 of the Texas Constitution, none of the funds appropriated above shall be expended for the purchase, lease and/or lease-purchase of computer hardware, software and/or telecommunications equipment of any kind until:
 - a. The agency has submitted a long-range plan and a complete inventory of all existing hardware, software, and telecommunication devices to the Automated Information and Telecommunications Council (AITC); and,
 - b. The AITC has certified in writing that: (1) the terms of the purchase, lease or lease-purchase are the most cost effective alternative; (2) the required services cannot be obtained through interagency contract with another state agency or agencies; (3) the requested hardware, software and/or telecommunication devices cannot be purchased from another agency; and, (4) the agency has complied with efforts to purchase compatible hardware, software or telecommunication systems.

The AITC shall adopt rules and procedures to govern the implementation of this provision. Such rules may include the waiver of the AITC review and certification for expenditures below certain limits, for emergency purposes, or after a designated time period has elapsed.
4. **INTERNAL AUDITOR REQUIRED.** From the funds appropriated above, the Texas Workers' Compensation Commission shall employ an internal auditor.
5. **ACCOUNT AUTHORIZED.** The Texas Workers' Compensation Commission is authorized to accept deposits for prepayment of the purchase

5. **ACCOUNT AUTHORIZED.** The Texas Workers' Compensation Commission is authorized to accept deposits for prepayment of the purchase of copies, record checks, and similar services and such deposits are hereby appropriated for the fiscal biennium beginning September 1, 1989. Deposits shall be maintained in a separate account in the Comptroller's office until the services are provided and expended. Refunds of unencumbered deposits shall be provided upon written request.
6. **REAPPROPRIATION OF MISCELLANEOUS FEES.** All monies received and collected by the Texas Workers' Compensation Commission during the 1990-91 biennium are hereby reappropriated to the Commission.
7. **POSITION CLASSIFICATION AUTHORITY.** Funds appropriated above may be expended to employ personnel in only those classified position titles listed in Article V of this Act or in such other positions established and approved by the State Classification Officer for use by the Texas Workers' Compensation Commission.
8. **APPLICABILITY OF GENERAL PROVISIONS.** The Appropriations made above to the Texas Workers' Compensation Commission are expressly made subject to the provisions of Article V and Article VII of this Act.

CAPERTON
MONTFORD

The amendment was read and was adopted viva voce vote.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 6

Amend C.S.S.B. 1, Article 1, Section 1.03(3), page 2, line 19, by inserting “, death, coverage, compensability, or compensation” between “injury” and “.”

The amendment was read and was adopted viva voce vote.

Senator Krier offered the following amendment to the bill:

Floor Amendment No. 7

Amend C.S.S.B. 1, Section 3.22(a) on page 50, line 11, by inserting after “state” the words, “and each employer of employees who work in this state.”

The amendment was read and was adopted viva voce vote.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 8

Amend C.S.S.B. 1, Article 4, Section 4.05, page_____, line _____, by inserting “or death” between “injury” and “for”.

The amendment was read and was adopted viva voce vote.

Senator Krier offered the following amendment to the bill:

Floor Amendment No. 9

Amend C.S.S.B. 1, Section 6.23, page 54, lines 14 and 15 by striking, “a first offense under this section is a Class A misdemeanor. A second or subsequent offense is a felony of the third degree.” and substitute the following:

“A person who violates the rules under this section commits a Class B administrative violation. Each day of noncompliance is a separate administrative violation.”

The amendment was read and was adopted viva voce vote.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 10

Amend C.S.S.B. 1, Article 6, Chapter D, Section 6.62(b), page 157, line 8 as follows: Strike "appealing the commission's order." at the end of the first sentence following the word "party"; and substitute in lieu thereof "claiming compensation."

The amendment was read and was adopted viva voce vote.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 11

Amend C.S.S.B. 1, Article 3, Section 3.22(a) as follows:

(1) Page 48, lines 13-16, strike all of the first sentence beginning "After" and ending "Act."; and substitute in lieu thereof the following: "Worker's compensation insurance coverage for each employee who is not exempt from coverage under this Act shall be obtained and maintained after December 31, 1991, by employers who employ in this state 150 or more employees not exempt from coverage under this Act; after December 31, 1992, by employers who employ in this state 50 or more employees not exempt from coverage under this Act; and after December 31, 1993, by employers who employ in this state more than 4 employees not exempt from coverage under this Act."

(2) Page 48, lines 16-17, strike "that date" and substitute in lieu thereof "those dates."

MONTFORD
CAPERTON

The amendment was read and was adopted viva voce vote.

RECORD OF VOTE

Senator Glasgow asked to be recorded as voting "Nay" on the adoption of the amendment.

Senator Santiesteban offered the following amendment to the bill:

Floor Amendment No. 12

Amend C.S.S.B. 1, Section 1.03 (21)(A) on page 6 line 24 by inserting "occupational therapy" after "physical therapy," and before "and" to read as follows:

(A) medical, surgical, chiropractic, podiatric, nursing, physical therapy, occupational therapy and psychological services provided by or at the direction of a health care provider;

The amendment was read and was adopted viva voce vote.

Senator Bivins offered the following amendment to the bill:

Floor Amendment No. 13

Amend C.S.S.B. 1 by striking the word "three" and inserting in lieu thereof the word "five" on line 19, page 41.

The amendment was read and was adopted viva voce vote.

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 14

Amend C.S.S.B. 1 as follows: (1) Strike Subsection (a) of Section 7.03 (lines 20 - 23, page 169) and insert in lieu thereof the following:

(a) The Texas Department of Health shall adopt and enforce rules as necessary to:

(1) reduce hazards and frequency of claims within hazardous occupations;

(2) reduce hazards and frequency of claims by extra-hazardous employers under Section 7.05 of this Act; and

(3) alleviate hazardous or unsafe work situations reported under Section 7.13 of this Act.

(2) Between lines 23 and 24, page 169, insert a new subsection (b) as follows:

(b) For the purposes of subsection (a)(1) of this section, the Texas Department of Health shall, by rule, adopt a list of hazardous occupations. In adopting that rule, the Department shall list occupations that are, by their nature, hazardous or likely to result in injuries to employees employed in that occupation.

(3) Renumber the current subsection (b) as (c) and renumber all subsequent subsections accordingly.

The amendment was read and was adopted viva voce vote.

Senator Bivins offered the following amendment to the bill:

Floor Amendment No. 15

Amend C.S.S.B. 1 as follows:

Section 17.09. STUDY OF OPTIONAL DEDUCTIBLE POLICIES is amended to read as follows: (a) The Board shall require each company or association that writes workers' compensation insurance in this state to offer optional deductible plans for the purposes of allowing policyholders to self-insure for the deductible amount.

(b) Not later than January 1, 1991, the Board shall promulgate at least three plans with varying deductible options. In addition, it shall by rule permit an employer to enter into an agreement with an insurer for a negotiated deductible in excess of the largest promulgated deductible.

(c) The Board shall perform an actuarial analysis for purposes of determining the amount of rate reduction applicable to policies under this section as opposed to standard policies without a deductible. In subsequent years, the Board shall determine the amount of rate reduction according to rating procedure to be adopted by the Board.

(d) The Board shall adopt rules to ensure the protection of the employee from intimidation and to ensure the security of payments of benefits up to the deductible amount if the policyholder cannot or does not pay the benefits because of insolvency, bankruptcy, or any other reason.

The amendment was read.

On motion of Senator Montford, the amendment was tabled by the following vote: Yeas 19, Nays 10.

Yeas: Barrientos, Brooks, Caperton, Carriker, Dickson, Edwards, Green, Johnson, Lyon, Montford, Parker, Parmer, Santiesteban, Tejeda, Truan, Uribe, Washington, Whitmire, Zaffirini.

Nays: Armbrister, Bivins, Brown, Glasgow, Haley, Henderson, Krier, McFarland, Ratliff, Sims.

Absent: Harris.

Absent-excused: Leedom.

Senator Parmer offered the following amendment to the bill:

Floor Amendment No. 16

Amend C.S.S.B. 1 as follows:

Section 4.29, page 105, by adding at line 19 between the word "injury" and ".", the following:

" , unless the average hourly wage of the employee for the usual work of the employee at the time of the injury is less than 1 1/2 times the federal minimum hourly wage, in which event the commission may grant not more than 5 advances to the employee based on the same injury and in determining whether to grant such advances the commission shall consider the employee's pre-injury net pay, any decrease in the total net benefits available to the employee's household because of the injury, and any other matters the commission determines are relevant to the employee's financial condition".

The amendment was read and was adopted viva voce vote.

Senator Parker offered the following amendment to the bill:

Floor Amendment No. 17

Amend C.S.S.B. 1, Article 7 by doing the following:

(1) on page 170, line 23 add the following after the word "division": "or available to the division from other sources."

(2) on page 171, line 10, strike "create and" and on line 12 add the following sentence after the word "material."

"The department shall create the material or approve material available from other sources.

(3) on page 172, line 1, add between the word "trade" and "association" the following:

"and educational"

(4) on page 172, line 6, add after "labor organizations" the following:

"educational associations,"

(5) on page 185, line 22, add the following after "labor":

"nonprofit association,"

The amendment was read and was adopted viva voce vote.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 18

Amend C.S.S.B. 1 as follows:

Section 3.23, page 54, line 15, by deleting the words "Class A misdemeanor" and adding the words "Class B administrative violation" and line 15 and 16 by

deleting the words “felony of the third degree” and adding the words “Class A administrative violation”.

The amendment was read.

On motion of Senator Montford and by unanimous consent, the amendment was withdrawn.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 19

Amend C.S.S.B. 1 as follows:

Section 6.41(d), page 157, line 1, by deleting the words “than 10 days after the last day of the mediation conference” and adding “within 20 days after the date the award recommendation is filed with the commission.”

The amendment was read and was adopted viva voce vote.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 20

Amend C.S.S.B. 1 as follows:

Section 4.23, page 100, line 10, by deleting the words “or partial”.

The amendment was read and was adopted viva voce vote.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 21

Amend C.S.S.B. 1 as follows:

Section 4.10 at page 94, line 21, by deleting the word “disability” and after the word “determining” adding the word “other”.

Section 4.10 at page 95, line 13, by deleting the word “disability” and adding the words “temporary incapacity” before the word “income”.

Section 4.10 at page 95, line 16, by deleting the word “disability” and by adding between the word “of” and “.” the words “temporary incapacity”;

Section 4.10 at page 95, line 17, by adding before the word “income” but after the word “determining” on line 17, the word “other”;

The amendment was read and was adopted viva voce vote.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 22

Amend C.S.S.B. 1 as follows:

Section 4.10 at page 94, line 21, by deleting the word “disability” and after the word “determining” adding the word “other”.

Section 4.10 at page 95, line 13, by deleting the word “disability” and adding the words “temporary incapacity” before the word “income”.

Section 4.10 at page 95, line 16, by deleting the word “disability” and by adding between the word “of” and “.” the words “temporary incapacity”;

Section 4.10 at page 95, line 17, by adding before the word “income” but after the word “determining” on line 17, the word “other”;

The amendment was read.

On motion of Senator Montford and by unanimous consent, the amendment was withdrawn.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 23

Amend C.S.S.B. 1 as follows:

Section 3.23, page 54, line 15, by deleting the words "Class A misdemeanor" and adding the words "Class B administrative violation" and line 15 and 16 by deleting the words "felony of the third degree" and adding the words "Class A administrative violation".

The amendment was read.

On motion of Senator Montford and by unanimous consent, the amendment was withdrawn.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 24

Amend C.S.S.B. 1 as follows:

Section 4.23, page 100, line 10, by deleting the words "or partial".

The amendment was read.

On motion of Senator Montford and by unanimous consent, the amendment was withdrawn.

Senator Dickson offered the following amendment to the bill:

Floor Amendment No. 25

Amend C.S.S.B. 1 as follows:

On page 103, line 19, after "factors", insert "and the trier of fact shall give such modification factors such weight it may determine based on all of the facts."

The amendment was read and was adopted viva voce vote.

RECORD OF VOTES

Senators Glasgow and McFarland asked to be recorded as voting "Nay" on the adoption of the amendment.

Senator Krier offered the following amendment to the bill:

Floor Amendment No. 26

Amend C.S.S.B. 1 as follows:

Amend Section 6.29, on page 154, between lines 2 and 3, insert a new subsection (d) as follows:

"(d) In a suit to vacate an award made by the mediator, any determination, including findings of fact or conclusions of law, shall be made exclusively by the court."

Amend Section 6.30, on page 154, between lines 9 and 10, by adding a new subsection (b) and renumbering subsequent sections accordingly:

“(b) In a suit to enforce an award made by the mediator, any determination, including findings of fact or conclusions of law, shall be made exclusively by the court.”

Amend Section 6.48, on page 164, between lines 11 and 12, by adding a new subsection (d) as follows:

“(d) In a suit to vacate an award made by the arbitrator, any determination, including findings of fact or conclusions of law, shall be made exclusively by the court.”

Amend Section 6.49, on page 164, between lines 17 and 18, by adding a new subsection (b) and renumbering subsequent sections accordingly:

“(b) In a suit to enforce an award made by the arbitrator, any determination, including findings of fact or conclusions of law, shall be made exclusively by the court.”

The amendment was read and was adopted viva voce vote.

Senator Caperton offered the following amendment to the bill:

Floor Amendment No. 27

Amend C.S.S.B. 1, Section 4.25(f), p. 103, line 14 by deleting the word “disability” and substituting the word “impairment” and on p. 103, line 19, delete the word “disability” and substitute the word “impairment”.

The amendment was read and was adopted viva voce vote.

On motion of Senator Montford and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

RECORD OF VOTES

Senators Brown, Glasgow, Henderson, McFarland, Bivins and Sims asked to be recorded as voting “Nay” on the passage of the bill to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 1 ON THIRD READING**

Senator Montford moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that C.S.S.B. 1 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Caperton, Carriker, Dickson, Edwards, Green, Haley, Harris, Henderson, Johnson, Krier, Lyon, McFarland, Montford, Parker, Parmer, Ratliff, Santiesteban, Sims, Tejada, Truan, Uribe, Whitmire, Zaffirini.

Nays: Brown, Glasgow, Washington.

Absent-excused: Leedom.

The bill was read third time.

Senator Washington offered the following amendment to the bill:

Floor Amendment No. 28

Amend C.S.S.B. 1 as follows:

On page 24 at line 21 add a new subsection (e) to read as follows:

"(e) The commission shall maintain information as to the race, ethnicity, sex, classification of injury, and amount of compensation received on every compensable injury."

By unanimous consent, the amendment was read and was adopted viva voce vote.

The bill as amended was finally passed viva voce vote.

RECORD OF VOTES

Senators Bivins, Brown, Glasgow, Henderson, McFarland and Sims asked to be recorded as voting "Nay" on the final passage of the bill.

REASON FOR VOTE

C.S.S.B. 1, passed today by the Senate, brings forward legislation which significantly addresses workers' compensation insurance reform. The bill addresses meaningfully many areas of reform upon which consensus exists as to what issues need to be addressed to effectively resolve the current crisis.

I voted against C.S.S.B. 1 because I do not believe it adequately addresses certain essential reforms which must be undertaken to provide necessary revision of our state's workers' compensation laws, so as to provide appropriate benefits to injured workers while maintaining a premium cost that is affordable to employers.

Principal among these concerns are the provisions of C.S.S.B. 1 which mandate workers' compensation insurance under substantial monetary penalty. Until premiums come in line with affordability small businesses cannot stay in business and provide workers' compensation benefits. It is estimated that almost one-third of Texas employers, mainly small businesses, have dropped their workers' compensation insurance coverage because of escalating premiums. They were left with no alternative but to terminate such coverage or go out of business.

Until premiums are brought in line it is better for a worker to at least have a job and the right to bring an action against his or her employer for injuries without the benefit of limited workers' compensation coverage rather than have no job at all. It is my firm belief that until insurance costs are first brought in line, a mandate of compensation insurance coverage to virtually all employers will cost literally hundreds of thousands of Texans their daily wage.

Additionally, the judicial review process of C.S.S.B. 1, I believe, continues to be too broad. While trial de novo is abolished by C.S.S.B. 1, the judicial review procedures contained therein allow an injured worker or insurance carrier the authority to basically re-litigate in full the injured party's entitlement to benefits, the extent and nature of the incapacity and the amount of benefits payable therefore.

Most recent data reflects that the cost of litigating injured workers' claims aggregate approximately one-half billion dollars per year without regard to costs dictated solely by threat of judicial review. While C.S.S.B. 1 contains significant limitations on current de novo practices, it is my earnest belief that meaningful cost containment will not be effected under the judicial review procedures authorized by C.S.S.B. 1.

These factors are compounded by the lack of a definitive, objective benefit system such as an impairment system which would provide both the injured worker,

the insurer, employer and attorney more specific guidelines in resolution of an injured worker's claim. It is my view that the limited impairment benefits system authorized by C.S.S.B. 1 is insufficient to effect meaningful resolution of this issue.

While differences exist in view upon other provisions of C.S.S.B. 1, I have often voted for legislation with which I had differences. Such is the legislative process, and rarely does one get the "whole pie" that a legislator might desire.

Again, I commend the authors of C.S.S.B. 1 for their efforts in meaningful resolution and compromise of many of these controversial issues. I pledge my efforts to continue to work with them to resolve the differences herein referenced which I believe will become the principal differences between the two houses of the legislature.

McFARLAND

ADJOURNMENT

On motion of Senator Brooks, the Senate at 1:10 p.m. adjourned, in memory of Joe Durham and Cecil Burney of Corpus Christi, until 11:00 a.m., Monday, June 26, 1989.

FOURTH DAY

(Monday, June 26, 1989)

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Brown, Caperton, Dickson, Edwards, Haley, Harris, Henderson, Johnson, Krier, Leedom, McFarland, Montford, Parker, Ratliff, Sims, Tejada, Truan, Washington, Zaffirini.

Absent: Barrientos.

Absent-excused: Bivins, Brooks, Carriker, Glasgow, Green, Lyon, Parmer, Santiesteban, Uribe, Whitmire.

LEAVES OF ABSENCE

Senator Bivins was granted leave of absence for today on account of important business on motion of Senator Brown.

Senator Lyon was granted leave of absence for today on account of important business on motion of Senator Brown.

Senator Parmer was granted leave of absence for today on account of important business on motion of Senator Brown.

Senator Whitmire was granted leave of absence for today on account of important business on motion of Senator Brown.

Senator Santiesteban was granted leave of absence for today on account of important business on motion of Senator Sims.

Senator Glasgow was granted leave of absence for today on account of important business on motion of Senator Brown.

Senator Carriker was granted leave of absence for today on account of important business on motion of Senator Brown.